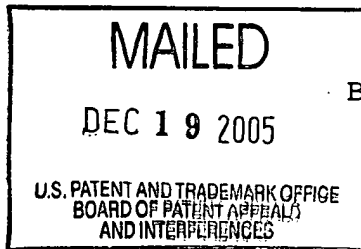


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte CHETAN SHAH,
BADRI MALYNUR and ERIC CHRISTIAN SMITH

Application No. 09/757,322

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on November 4, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On March 4, 2003, appellants filed an amendment to claims 1-7, 11-16, 19 and 20.¹ It is noted that the language of claims 6(b) and 15(c) in the Appendix to the Appeal Brief filed November 28, 2003 differs from its last amended version. 37 CFR

¹This amendment appears to be a duplicate of the amendment facsimile transmitted on February 25, 2003.

§ 1.192(c)(9)(2003) requires that the Appendix to the Appeal Brief contains a correct copy of the claims involved in the appeal.

On November 2, 2005, the examiner informally notified the BPAI stating that the "[return mailed August 3, 2004] is improper as appendix claims are proper."

The claims in question, 6(b) and 15(c), appearing in the Amendment filed March 4, 2003 read as follows:

(Marked up version of claim 6(b) appearing on page 10)

(b) upon expiration of a period substantially equal to said search periodicity, searching said candidate database associated with said position advertisement.

(Clean version of claim 6 appearing on page 3)

(b) searching said candidate database associated with said position advertisement upon expiration of a period substantially equal to said search periodicity.

(Marked up version of claim 15(c) appearing on page 13)

(c) a data processing device to search said second data structure for a candidate resume including said keyword; said search proceeding automatically in response to expiration of a search periodicity [a search parameter] associated with said employment position.

(Clean version of claim 15(c) appearing on page 5)

(c) a data processing device to search said second data structure for a candidate resume including said keyword, said search proceeding in response to expiration of a search periodicity associated with said employment position.

It should be noted that the clean copy of 6(b) and 15(c) appearing in the Amendment agree with the claims appearing in the Appendix to the Appeal Brief filed November 28, 2003. However, inconsistencies occur between the marked up and clean versions of these claims. Clarification is required regarding which version of the claims is correct and is to be used in the Appendix to the Brief.

Accordingly, it is

ORDERED that the application is electronically returned to the examiner:

1. for written notification to appellants to clarify which version of claims 6(b) and 15(c) is to be used in the Appendix to the Brief filed November 28, 2003;

2. if appropriate, for appellants to submit a new Appendix to the Appeal Brief filed November 28, 2003 which contains a correct copy of the claims on appeal; and

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3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW

Program and Resource Administrator
(571) 272-9797

DMS:psb

cc: Chernoff, Vilhauer, McClung & Stenzel, LLP
1600 ODS Tower
601 S.W. Second Avenue
Portland, OR 97204